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10/733,398	12/12/2003	Gunter Kohler	Q78757	9135

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SUGHRUE MION, PLLC  
2100 PENNSYLVANIA AVENUE, N.W.  
SUITE 800  
WASHINGTON, DC 20037

EXAMINER

HERRERA, DIEGO D

ART UNIT	PAPER NUMBER
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2683

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/733,398	<b>Applicant(s)</b> KOHLER ET AL.	
	<b>Examiner</b> Diego Herrera	<b>Art Unit</b> 2683	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on April 13, 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on April 13, 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on April 13, 2004 was filed. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Drawings***

3. The drawings are objected to because Fig. 1 box 108 has a misspelling error. Please correct the word 'comparision' to 'comparison'. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top

margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

4. The abstract of the disclosure is objected to because misspelling of the word 'neighboring' the abstract states 'neighbouring'; please make correction in the area. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities:

- Paragraph 7, the words 'kilometres' and 'metres' need to be corrected to 'kilometers' and 'meters', respectively.
- Paragraph 13, the word 'characterised' needs to be corrected to 'characterized'.
- Paragraph 17, there is need of a coma between the words 'invention' and 'the' in the first sentence of the paragraph; furthermore, the word 'travelling' needs to corrected to 'traveling'.
- The following paragraphs also have the same problem as paragraph 17 please make the punctuation corrections: Paragraph 21, 29, 32, 35, 36, Paragraph 19, there is need of a coma between the words 'measurement' and 'the'; furthermore, the words 'optimisation' and 'utilised' need to be corrected to 'optimization' and 'utilized', respectively.

- Review specification to make corrections on words that are spelled wrong consistently through out the specification: 'neighbouring' to 'neighboring'; 'travelling' to 'traveling'; 'kilometres' to 'kilometers'; 'metres' to 'meters'; 'optimisation' and 'optimization'.
- On the page "List of Reference Numerals", for 204 it is suggested to change 'metropolitan area' to 'city center' to stay consistent with the Figures in the drawings section.

The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

- Paragraph 20, is objected to by M.P.E.P. 608.01 SECTION VII, where it states the following, "the embedded hyperlinks and/or other forms of browser-executable code are impermissible and require deletion.... The attempt to incorporate subject matter into the patent application by reference to a hyperlink and/or other forms of browser-executable codes >themselves rather than the contents of the site to which the hyperlinks are directed< are part of applicant's invention and it is necessary to have them included in the patent application in order to comply with the requirements of 35 U.S.C. 112, first paragraph.

Appropriate correction is required.

***Claim Objections***

5. Claims 3 and 4 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The examiner will examine claims 3 and 4 as being dependant on claim 2. Claims 3 and 4 are dependant to claim 1, but claim 1 does not contain the second measurement area that claims 3 and 4 are comprising there of. The examiners suggestion is to change the dependency of claims 3 and 4 from claim 1 to claim 2.

Claims 1, 2, 4, 6, 7, 9, and 10 objected to because of the following informalities:

- 'optimisation', 'travelling', and/or 'neighbouring' are misspelled and they need to be corrected to 'optimization', 'traveling', and 'neighboring' respectively.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Language used is deemed as not specific as to what the meaning of 'position measurement conditions', since there is no reference made in the body of the specifications as to what that means, hence one is left to guess of what those conditions are.

***Claim Rejections - 35 USC § 101***

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 9 rejected under 35 U.S.C. 101 because of the wording use to describe the claimed invention. The following is suggested by the examiner for an amendment: "A computer program '**stored in a computer readable**' medium...comprising program '**code/instruction**' for performing the steps..." this will amend the claim, make necessary corrections.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless: (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, and 2 rejected under 35 U.S.C. 102(b) as being anticipated by Green, Jr. (U.S. Patent # 5,926,133).

Consider claim1, Green, Jr. shows and discloses a method of determining a quality measure of a position measurement method for a cellular telecommunication network, the method (Abstract, col. 7, lines: 34-44, col. 3, lines: 44-46) comprising the steps of:

Identification of a first measurement area having at least a predefined number of neighboring first cells, the first measurement area belonging to a selected class of measurement areas (Fig. 3, col. 4, lines: 66-67, col. 5, lines: 1-8).

Defining of first sub-areas in the first measurement area by applying a predefined grid on the first measurement area (Fig. 3),

Performing position measurements by means of the position measurement method in at least a sub-set of the first sub-areas (col. 5, lines: 34-48),

Determining of measurement errors for the position measurements (col. 7, lines: 34-44),

Determining of the quality measure based on the measurement errors (col. 8, lines: 55-65).

Consider claim 2, as applied to claim 1 above, Green, Jr. shows and discloses a method whereby the first class is defined by a minimum first size of the first cells and further comprising (Fig. 3):

Identification of a second measurement area having at least the predefined number of neighboring second cells, each one of the second cells having a maximum second size, whereby the second size is smaller than the first size (col. 8, lines: 59-67, note: the reference point out a different configuration for an urban area which is interpreted by the examiner to mean smaller and higher density of user and cells concentrated in that environment. This would imply that there would be a bigger area {first class} and a smaller area {second class}),

Defining of second sub-areas in the second measurement area by applying a second predefined grid on the second measurement area (col. 5, lines: 34-48),

Performing position measurements by means of the position measurement method in at least a sub-set of the second sub-areas (col. 7, lines: 34-44).



***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 3 rejected under 35 U.S.C. 103(a) as being unpatentable over Green, Jr. (U.S. Patent # 5,926,133) in view of Spirito M A et al. (Preliminary experimental results of a GSM mobile phones positioning system based timing advance).

Regarding claim 3, and as applied to claim 2 above, Green, Jr. discloses the claimed invention except selecting of at least a predefined fraction of the first and second sub-areas for the subset and performing a specified minimum number of position measurements per sub-area and each one of the measurement routes having measurement route segments which are about evenly distributed in the respective measurement area.

However, Spirito M A et al. discloses selecting of at least a predefined fraction of the first and second sub-areas (Paragraphs 10-11, 'The field trial was carried on in rural {first class} and urban {second class}/suburban areas...Two regions {first sub-areas} in a rural environment and two regions {second sub-areas} in an urban environment') for the subset and performing a specified minimum number of position measurements per sub-area (Paragraphs 20-23, 'This analysis aids the design of the EKF, in which the model of the distance measurements obtained from TAs is defined as the correct MS-BTS distance plus a white Gaussian sequence...to completely describe the Gaussian measurement error model...').

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to modify the system Green, Jr. for having at least a predefined fraction of the first and second sub-areas for the subset and performing a specified minimum number of position measurements per sub-areas by adding Spirito M A et al. for the purpose of assessing the measurements' reliability (Paragraph 34).

Claim 4 rejected under 35 U.S.C. 103(a) as being unpatentable over Green, Jr. in view of Sendonaris et al. (U.S. Patent # 6,141,552).

Regarding claim 4, and as applied to claim 2 above, Green, Jr. discloses the claimed invention except identification of at least an additional third measurement area having the predefined number of neighboring third cells, the third cells having at least a third intermediary size between the first size and the second size, defining of third sub-areas in the third measurement area by applying a third predefined grid on the third measurement area, providing a measurement route for each one of the measurement areas, each one of the measurement routes having a length of a multiple of the square root of the respective measurement area.

However, Sendonaris et al. discloses identification of at least an additional third measurement area having the predefined number of neighboring third cells (Fig. 2), the third cells having at least a third intermediary size between the first size and the second size (Fig. 2, col. 3, lines: 58-65), defining of third sub-areas in the third measurement area by applying a third predefined grid on the third measurement area, providing a measurement route for each one of the measurement areas (Fig. 7, col. 8, lines: 25-32), each one of the measurement routes having a length of a multiple of the square root of the respective measurement area.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to modify the system of Green for identification of at least an additional third measurement area having the predefined number of neighboring third cells, the third cells having at least a third intermediary size between the first size and the second size, defining of third sub-areas in the third measurement area by applying a third predefined grid on the third measurement area, providing a

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measurement route for each one of the measurement areas, each one of the measurement routes having a length of a multiple of the square root of the respective measurement area by adding Sendonaris et al. for the purpose of circumscribing areas that are of intermediary size of that of the first and second class areas and leaving no gaps in the network between the first and second class areas.

Claim 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Green, Jr. in view of Sendonaris as applied to claim 4 above and further in view of Spirito M A et al. (Preliminary experimental results of a GSM mobile phones positioning system based timing advance).

Regarding claim 5, and as applied to claim 4 above, Green as modified by Sendonaris does not disclose each one of the measurement routes having measurement route segments that are about evenly distributed in the respective measurement area (Paragraphs 12-18, note: reference mentions distances and measurements of routes).

However, Spirito M A et al. disclose that each one of the measurement routes having measurement route segments which are about evenly distributed in the respective measurement area (Paragraphs 12-18, note: reference mentions distances and measurements of routes for the different size measurement areas).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to modify the system by the combination of Green/Sendonaris to further modify the method each one of the measurement routes having measurement route segments which are about evenly distributed in the

respective measurement area by adding Spirito M A et al. for the purpose of validity of position information (Paragraphs 21-23).

Claim 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green in view of Sendonaris as applied to claim 6 above, and further in view of Walczak et al. (U.S. Patent Application Publication # 20020098851).

Regarding claim 6, and as applied to claim 4 above, Green as modified by Sendonaris does not disclose the position measurements being performed at equidistant points of time or distance while traveling along the measurement route.

However, Walczak et al. discloses the position measurements being performed at equidistant points of time or distance while traveling along the measurement route (Paragraphs 27 and 43, note: ...a time attribute, for example the time of acquisition of the signal, is associated with the location or position or speed or velocity information derived from the sampled signals or with the signal data from which the information is derived...or is a function of, an interval of time that passes between generation of the reference location fix and the location fix for which the validity determination is desired).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to modify the method of the combination of Green/Sendonaris for each one of the measurement routes having measurement route segments which are about evenly distributed in the respective measurement area by adding Walczak et al. for the purpose of a more accurate and valid measurement of position (Paragraphs 27 and 43).

Regarding claim 7, and as applied to claim 4 above, Green and Sendonaris as modified by Walczak do not disclose providing a speed profile for performing of the position measurements when traveling along the measurement route.

However, Walczak et al. further modifies providing a speed profile for performing of the position measurements when traveling along the measurement route (Paragraphs 26 and 44)

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to modify the method of the combination Green/Sendonaris for providing a speed profile for performing of the position measurements when traveling along the measurement route by adding Walczak et al. for the purpose of gathering information of the mobile station for further processing (Paragraphs 26).

Claim 9 and 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Sendonaris et al. in view of Tayloe et al. (U.S. Patent # 5,095,500).

Regarding claim 9, Sendonaris disclose neighboring cells of different sizes except a computer program stored in a computer readable medium, for planning of position measurements for the purpose of determining a quality measure of a position measurement method for a cellular telecommunication network, comprising program code/instruction for performing the steps of: accessing of cartographic and network topology data for the cellular telecommunication network, identification of a first measurement area having at least a predefined number of neighboring first cells, the first cells having at least a first size, the identification being performed on the basis of

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the cartographic and/or network topology data, defining of first sub-areas in the first measurement area by applying a predefined grid on the first measurement area, identification of a second measurement area having at least a predefined number of neighboring second cells, each one of the second cells having a maximum second size, whereby the second size is smaller than the first size, the identification being performed on the basis of the cartographic and/or network topology data, defining of second sub-areas in the second measurement area by applying a predefined grid on the second measurement area, providing a measurement plan for the first and second measurement areas.

However, Tayloe et al. discloses and shows a computer program stored in a computer readable medium, for planning of position measurements for the purpose of determining a quality measure of a position measurement method for a cellular telecommunication network, comprising program code/instruction for performing the steps of: accessing of cartographic and network topology data for the cellular telecommunication network (col. 2, lines: 39-41), identification of a first measurement area having at least a predefined number of neighboring first cells (Fig. 2), the first cells having at least a first size, the identification being performed on the basis of the cartographic and/or network topology data, defining of first sub-areas in the first measurement area by applying a predefined grid on the first measurement area (Fig. 2), identification of a second measurement area having at least a predefined number of neighboring second cells, each one of the second cells having a maximum second size, whereby the second size is smaller than the first size, the identification being performed

on the basis of the cartographic and/or network topology data, defining of second sub-areas in the second measurement area by applying a predefined grid on the second measurement area (Fig. 4), providing a measurement plan for the first and second measurement areas (col. 4, lines: 62-68, col. 5, lines: 1-11, note: monitoring is considered as measurement plan).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to modify the method of Sendonaris to have a computer program stored in a computer readable medium, for planning of position measurements for the purpose of determining a quality measure of a position measurement method for a cellular telecommunication network, comprising program code/instruction for performing the steps of: accessing of cartographic and network topology data for the cellular telecommunication network (col. 2, lines: 39-41), identification of a first measurement area having at least a predefined number of neighboring first cells (Fig. 2), the first cells having at least a first size, the identification being performed on the basis of the cartographic and/or network topology data, defining of first sub-areas in the first measurement area by applying a predefined grid on the first measurement area (Fig. 2), identification of a second measurement area having at least a predefined number of neighboring second cells, each one of the second cells having a maximum second size, whereby the second size is smaller than the first size, the identification being performed on the basis of the cartographic and/or network topology data, defining of second sub-areas in the second measurement area by applying a predefined grid on the second measurement area (Fig. 4), providing a measurement



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plan for the first and second measurement areas (col. 4, lines: 62-68, col. 5, lines: 1-11, note: monitoring is considered as measurement plan) for by adding Tayloe et al. for the purpose of effectively diagnose coverage deficiencies in different size areas and take the necessary corrective action for the measurement plan.

Regarding claim 10, and as applied to claim 9 above, Tayloe et al. inherently discloses and shows a computer system for planning and/or optimization of a cellular telecommunication network (col. 2, lines: 39-41), the computer system comprising: means for providing cartographic and network topology data of the cellular telecommunication network (col. 2, lines: 39-41), means for identification of a first measurement area having at least a predefined number of neighboring first cells, the first cells having at least a first size the identification being performed on the basis of the cartographic and/or network topology data, means for defining of first sub-areas in the first measurement area by applying a predefined grid on the first measurement area (Fig. 2), means for identification of a second measurement area having at least the predefined number of neighboring second cells, each one of the second cells having a maximum second size, whereby the second size is smaller than the first size, the identification being performed on the basis of the cartographic and/or topology data, means for defining of second sub-areas in the second measurement area by applying a second predefined grid on the second measurement area (Fig. 4), means for providing a measurement plan for the first and second measurement areas (col. 4, lines: 62-68, col. 5, lines: 1-11, note: monitoring is considered as the measurement plan by the examiner).

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following is the list of prior art pertinent to disclosure:

- U.S. Patent # 6,456,234 (System and method for proactive content delivery by situation location).
- U.S. Patent # 6,278,939 (Method and system for providing data from a remotely located geographic database for use in navigation system units).
- U.S. Patent # 5,839,088 (Geographic location referencing system and method).
- U.S. Patent # 6,226,601 (Seismic survey system).
- U.S. Patent # 5,970,481 (Method and apparatus for determining tax of a vehicle).
- U.S. Patent # 6,374,078 (Wireless communication system with multiple external communication links).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diego Herrera whose telephone number is (571) 272-0907. The examiner can normally be reached Mon-Fri, 7 AM-5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William G. Trost can be reached on (571) 272-7872. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DDH

  
RAFAEL PEREZ-GUTIERREZ  
PRIMARY EXAMINER  
9/19/09